

ESTTA Tracking number: **ESTTA244633**

Filing date: **10/24/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91178682
Party	Plaintiff Franciscan Vineyards, Inc.
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Date	10/24/2008
Attachments	Motion to Strike affirmative defenses.pdf ( 32 pages )(6237329 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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Fransican Vineyards, Inc.

Opposer

Mark: DOMAINE PINNACLE and  
design

v.

Opposition No. 91178682

Domaine Pinnacle, Inc.

Serial No.: 78783236

Filed: December 30, 2005

Applicant

-----X

**OPPOSER'S MOTION TO STRIKE AFFIRMATIVE DEFENSES FROM APPLICANT'S  
AMENDED ANSWER TO THE AMENDED NOTICE OF OPPOSITION**

Opposer, Franciscan Vineyards, Inc., Inc.("Opposer"), hereby moves to strike Affirmative Defenses #1, 2, 3, 4, 5, 6, 7, and 8 of Applicant's, White Rock Distilleries, Inc., (Applicant") Answer to the Notice of Opposition. For the foregoing reasons, the alleged defenses do not provide Applicant with legally sufficient or legally supportable defenses to the Amended Notice of Opposition. As such, the defenses are insufficient.

This motion is made within the time prescribed in F.R.Civ.P. Rule 12(c) and is thereby timely. Insofar as the motion falls under F.R.Civ.P 12(f), the Board has discretion to hear the same at this time. To the extent that the motion requires the Board to look beyond the pleadings, the motion may be considered a motion for partial summary judgment pursuant to F.R.Civ.P. Rule 56(c).

Opposer would not normally make the present motion but feels it will be helpful in narrowing and limiting the issues in this proceedings and thereby also serving as a guide in conducting discovery. As stated in 2A Moores Federal Practice paragraph 12.21[3]:

Although courts are reluctant to grant motions to strike, where a defense is legally insufficient, the motion should be granted in order to save the parties unnecessary expenditure in time and money in preparing for trial.

Opposer's grounds for this motion are set forth below.

**Applicant's First Affirmative Defense Should Be Stricken**

Opposer believes Applicant's First Affirmative Defense in Applicant's Answer should stricken reads as follows:

1. Opposer fails to state a claim upon which relief can be granted.

Applicant's asserted defense questions the sufficiency of Opposer's pleading. While Rule 12(b) permits Applicant to assert the above defenses, "it necessarily follows that a plaintiff may utilize this assertion to test the sufficiency of the defense in advance of trial by moving . . . to strike the 'defense' from the defendant's answer." Order of Sons of Italy in America v. Profumi Fratelli Nostra AG, 36 USPQ2d 1221, at 1222-1223 (TTAB 1995), *citing S.C. Johnson & Son Inc. v. GAF Corporation*, 177 USPQ 720 (TTAB 1973).

The following factors set forth in Order of Sons of Italy govern a motion to strike a defense of failure to state a claim upon which relief may be granted.

1. To withstand a motion to dismiss for failure to state a claim upon which relief can be granted, an Opposer need only allege such facts as would, if proved, establish that (1) the Opposer has standing to maintain the proceeding, and (2) a valid ground exists for opposing registration.
2. For purposes of determining a motion to dismiss for failure to state a claim upon which relief can be granted, all of Opposer's well-pleaded allegations must be accepted as true, and the Notice of Opposition must be construed in the light most favorable to Opposer.
3. Dismissal for insufficiency is appropriate only if it appears certain that the Opposer is entitled to no relief under any set of facts which could be proved in support of its claim.

4. The standing question is an initial inquiry directed solely to establishing the personal interest of the plaintiff. An Opposer need only show "a personal interest in the outcome of the case beyond that of the general public."

Opposer, in its Amended Notice of Opposition, has alleged, *inter alia*, the following:

- Ownership of the mark PINNACLES and variations thereof for wine since long prior to the Applicant's alleged adoption of its mark (Not. Opp. ¶¶1-7).
- That the parties' respective marks are confusingly similar (PINNACLES and variations thereof v. DOMAINE PINNACLE). (Not. Opp. ¶ 9).
- That the parties' respective goods and services are very similar (Not. Opp. ¶ 10).
- That the issuance of a registration to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer and will cause dilution by blurring the distinctive quality of Opposer's Marks (Not. Opp. ¶¶ 11, 12).
- Opposer will be damaged by issuance of a registration to Applicant. (Not. Opp. ¶¶ 15).
- Applicant lacks the requisite intent to use the mark DOMAINE PINNACLE in commerce for the goods claims in the application, as Applicant's business is limited to the sale of alcoholic beverages derived from apples. (Not. Opp. ¶¶ 13-14).
- Applicant's mark is primarily geographically descriptive when used on or in connection with the goods or services of Applicant. Marks (Not. Opp. ¶¶ 16).

The forgoing allegations are specifically set forth in Opposer's pleading and, if proven, Opposer will be entitled to the relief which it is seeking. Opposer has stated a legally sufficient claim upon which relief can be granted and is entitled to an order striking Applicant's First Affirmative Defense. See, S.C. Johnson & Son, Inc. v. GAF Corp., 177 USPQ 720 (TTAB 1973).

Opposer is entitled to judgment striking Affirmative Defense 1 of the Answer. The defense pleaded is insufficient as a matter of law.

**Applicant's Affirmative Defenses 2 and 4 Should Be Stricken**

Opposer believes Applicant's Affirmative Defenses 2 and 4 of Applicant's Answer should be stricken and read as follows:

2. Opposer users the work "Pinnacles" merely as the name of a varietal for wine, and not as a trademark for wines or any other goods.
4. Other than wine, for which Opposer uses the PINNACLES mark as a varietal only, Opposer makes no use of the PINNACLES mark.

Affirmative Defenses 2 and 4 represent, in effect, collateral attacks on the validity of Registration No. 0997378, which contravenes the basic requirement of Rule 2.106(b)(2)(i) that a defense attacking the validity of any one or more of the registrations pleaded in the opposition shall be a compulsory counterclaim if grounds for such counterclaim exist at the time when the answer is filed. No defense attacking the validity of a pleaded registration may be raised except by way of cancellation of the registration. Such a defense as set forth in paragraphs 2 and paragraph 4 of Applicant's Affirmative Defenses may only be asserted by way of a counterclaim to cancel the registrations in question. See, e.g., Textron, Inc. v. Gillette Co., 180 USPQ 152, 153 (TTAB 1973) (stating that the TTAB considers it to be mandatory that a party assert as a counterclaim any claim which, at the time of serving his pleading, he has against the adverse party if the counterclaim arises out of the subject matter of the transaction or occurrence which is the subject matter of the other party's claim). See also Outdoor Sports Industries, Inc. v. The Joseph & Feiss Company, 177 USPQ 535 (TTAB 1973).

Further, Applicant's statements regarding wine varietals are unfounded and inaccurate. A varietal describes wines made primarily from a single named grape variety, and varietal wines

made from a single variety of grape identify this variety on the label. (See Exhibit A for dictionary evidence of the meaning of varietal). A varietal is one way of categorizing wines, while another is to classify wines by region where produced, or appellation.

Wines are categorized using a number of different methods. Sometimes they are grouped into different categories by grape variety, region of origin, by color, by the name of the wine maker or viticulturalist, or by production technique. . . .

In wine-producing regions outside of Europe, particularly California and Australia, table wines are often classified by the grape variety they are made from. At least 75 percent of the grapes used to produce the wine must be of the named grape variety. Chardonnay, for example, is wine made from at least 75 percent chardonnay grapes. Wines classified this way are sometimes called varietals, and include wines such as riesling, cabernet sauvignon, and merlot.

The traditional European classification system puts more emphasis on the region—or *appellation*—where the wine is from. The French system of *Appellation d'Origine Contrôlée* labels wines based on their geographical pedigree. The most renowned wine-producing regions in France, and possibly the world, are Burgundy, in central France, and Bordeaux, a region on the southwestern coast of the country.

“Wine,” Microsoft® Encarta® Online Encyclopedia 2008, <http://encarta.msn.com> © 1997-2008 Microsoft Corporation (Last visited October 16, 2008).

There is no grape variety called Pinnacles or Pinnacle, and no such wine varietal exists. Exhibit B, attached, is a listing from the website of the Alcohol and Tobacco Tax and Trade Bureau, U. S. Department of the Treasury, <http://www.ttb.gov/wine/index.shtml>, listing the approved grape names for American wines. PINNACLE is not among them. Exhibit C, attached, is a second listing from the government site showing authorized wine appellations of origin by U. S. viticultural areas. Neither PINNACLE nor PINNACLES is an authorized wine appellation in the United States.

Opposer has used the term PINNACLES for as a Mark for wines for many years, and its registration of such is uncontested. Opposer owns a vineyard called Pinnacles Ranches, but there is no grape of that name. Opposer does not use the PINNACLE name as an indicator of what grape is used to make its wines, but as a trademark to indicate the source of its goods.

To the extent that Applicant is asserting non-use of the PINNACLES Mark by Opposer, Applicant has improperly pled it as an Affirmative Defense, and as such it should be stricken. To the extent that Applicant claims that non-use based on its argument that PINNACLES is a wine varietal, Applicant is clearly mistaken.

Opposer is entitled to judgment striking Affirmative Defenses 2 and 4 of the Answer. The defenses pleaded are insufficient as a matter of law.

#### **Applicant's Affirmative Defenses 3, 5, and 6 Should Be Stricken**

Opposer believes Applicant's Affirmative Defenses 3, 5, and 6 of Applicant's Answer should be stricken and read as follows:

3. Consumers are not likely to confuse Applicant's apple-based non-alcoholic beverages and products from Quebec sold under the DOMAINE PINNACLE & Design mark with Opposer's wines sold under the PINNACLES varietal.
5. The goods of Applicant are wholly distinguishable from those of Opposer. Applicant's Third and Fifth Affirmative Defenses are wholly improper.
6. The commercial impression created by Applicant's DOMAINE PINNACLE & Design Mark is completely different from that created by the varietal PINNACLES used by the Opposer.

The Board is empowered to determine the right to register and makes determinations on likelihood of confusion between similar marks. It is no defense to assert that the marks are unlikely to be confused and that the goods are wholly distinguishable. Applicant offers no facts to support these defenses, but makes broad, self-serving assertions, which are not evidence.

The assertions of affirmative defense 3, 5, and 6 in fact merely reaffirm Applicant's previous denials of Opposer's claim of likelihood of confusion and relatedness of the parties' goods, and otherwise add nothing of substance to applicant's answer. As such, these paragraphs are redundant in character and therefore improperly pleaded. See: Rule 12(f) FRCP. See also Textron, Inc. v. The Gillette Company, 180 USPQ 152, 154 (TTAB 1973). Applicant's third and fifth defenses are nothing more than restatements of its denials. Order of Sons of Italy in America v. Profumi Fratelli Nostra AG, 36 USPQ2d 1221, 1223 (TTAB 1995).

Further, Affirmative Defenses 3 and 6 contains that misstatement that PINNACLES is a varietal. Opposer has used its PINNACLES mark as a trademark for wines for many years. The evidence submitted in Opposer's attached Exhibits refutes Applicant's erroneous contention that PINNACLES is a grade varietal. The Opposition is based on likelihood of confusion and priority between Opposer's incontestable PINNACLES Mark and Applicant's DOMAINE PINNACLE Mark. The commercial impressions created here are between the similar Marks, not between a mark and a varietal, which Applicant denied in its Amended Answer.

Opposer is entitled to judgment striking Affirmative Defenses 3, 5, and 6 of the Answer. The defenses pleaded are insufficient as a matter of law.

#### **Applicant's Affirmative Defense 7 Should Be Stricken**

Opposer believes Applicant's Affirmative Defense 7 of Applicant's Amended Answer should be stricken and read as follows:

7. The mark PINNACLES is a plain word mark in traditional font. The mark DOMAINE PINNACLE & Design, however, comprises a design in form of a shaded square, a snowflake and an apple, in addition to the highly stylized word 'Pinnacle' and the stylized extra word 'Domaine'. The word 'Pinnacle' is not a prominent part of the mark DOMAINE PINNACLE & design, but the commercial impression of the composite mark is dominated by the elaborate design and extra stylized wording.

Applicant's Seventh Affirmative Defense above violates Rule 10(b) F.R.Civ.P. by making multiple allegations in a single paragraph. Rule 10(b) requires that:

All averments of claim or defense should be made in numbered paragraphs, the contents of each of which should be limited as far as practicable to a statement of a single set of circumstances.

See also Isle of Aloe, Inc. v. Aloe Crème Laboratories, Inc., 180 USPQ 794 (TTAB 1974).

Opposer is entitled to judgment striking Affirmative Defense 7 of the Answer. The defense pleaded is insufficient as a matter of law.

#### **Applicant's Affirmative Defense 8 Should Be Stricken**

Opposer believes Applicant's Affirmative Defense #8 of Applicant's Amended Answer should be stricken and read as follows:

8. The mark PINNACLES as used by Opposer is primarily geographically descriptive, therefore not a strong mark. The property of Opposer is located at the base of the Pinnacles National Monument, which was established about a hundred years ago and encompasses an area of approximately 26,000 acres. Hence, there is only a marginal possibility that a potential customer would, upon seeing the mark, think of Opposer's varietal rather than recognizing the name as denoting the place of origin.

Not only does Affirmative Defense #8 also violate Rule 10(b) F.R.Civ.P. by making multiple allegations in a single paragraph, but it is improperly pleaded because Opposer's PINNACLES mark is incontestable. As such, it is immune to attacks based on descriptiveness, geographic or otherwise.

Under the Supreme Court's decision in Park 'N Fly, Inc. v. Dollar Park and Fly, Inc., 105 S.Ct. 658, 224 USPQ 327, 300 (1985), an incontestable mark may not be challenged on the grounds that the mark is merely descriptive.

The language of the Lanham Act also refutes any conclusion that an incontestable mark may be challenged as merely descriptive. A mark that is merely descriptive of an applicant's goods or services is not registrable unless the mark has secondary meaning. Before a mark achieves incontestable status, registration provides *prima facie* evidence of the registrant's exclusive right to use the mark in commerce. § 33(a), 15 U.S.C. § 1115(a). The Lanham Act expressly provides that before a mark becomes incontestable an opposing party may prove any legal or equitable defense which might have been asserted if the mark had not been registered. *Ibid.* Thus, § 33(a) would have allowed respondent to challenge petitioner's mark as merely descriptive if the mark had not become incontestable. With respect to incontestable marks, however, § 33(b) provides that registration is *conclusive* evidence of the registrant's exclusive right to use the mark, subject to the conditions of § 15 and the seven defenses enumerated in § 33(b) itself. Mere descriptiveness is not recognized by either § 15 or § 33(b) as a basis for challenging an incontestable mark. *Id.*

See also Tonka Corporation v. Tonka Phone Inc., et al., 229 USPQ 747, 753 (D. Minn. 1985) (rejecting argument that the mark “TONKA” not protectable for geographic descriptiveness mark because it was incontestable).

An incontestable mark is entitled to a presumption that the mark is strong as a matter of law. Jet Inc. v. Sewage Aeration Systems, 49 USPQ2d 1355, 1358 (6th Cir. 1999) (holding that evidence that a mark was been weakened by widespread use of similar marks is not sufficient to rebut the presumption of strength of an incontestable mark). “It is now clear that an incontestable registration, including one granted pursuant to Section 2(f), may not be challenged on the basis of mere descriptiveness, and that such a registration may become incontestable.” In re BankAmerica Corporation, 231 USPQ 873 (TTAB 1986).

Applicant’s Affirmative Defense, that Opposers’ incontestable Mark PINNACLES is not a strong mark and goods bearing the Mark would not be associated by consumers with Opposer, is not supported as a matter of law. As such, Applicant’s Affirmative Defense #8 should be stricken.

Opposer is entitled to judgment striking Affirmative Defense 8 of the Answer. The defense pleaded is insufficient as a matter of law.

WHEREFORE, Opposer respectfully moves that its motion to strike the affirmative defenses of Applicant's Answer be granted in all respects

Respectfully submitted,

BAKER AND RANNELLS PA

By: 

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Linda Kurth

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Raritan, New Jersey 08869  
Tel: 908-722-5640

Dated: October 24, 2008

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing Opposer's MOTION TO STRIKE AFFIRMATIVE DEFENSES in re: Franciscan Vineyards, Inc. v. Domaine Pinnacle, Inc., Opposition No. 91178682 was served on counsel for Applicant, this 20<sup>th</sup> day of October, 2008 by sending same via Email and First Class Mail, postage prepaid, to:

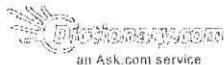
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DATED: October 24, 2008



Linda Kurth

# EXHIBIT A

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5 dictionary results for: *varietal**Dictionary.com Unabridged (v 1.1) - Cite This Source - Share This***va·ri·e·tal** (vuh-rāh-yə-tl) [Pronunciation Key](#) - [Show IPA](#)**Pronunciation**—*adjective*

1. of, pertaining to, designating, or characteristic of a variety.
2. constituting a variety.
3. (in U.S. winemaking) designating a wine made entirely or chiefly from one variety of grape.

—*noun*

4. a varietal wine named for such a grape (distinguished from *generic*).

[Origin: 1865-70; *VARIET(Y)* + -AL<sup>1</sup>]—*Related forms***va·ri·e·tal·ly**, *adverb**Dictionary.com Unabridged (v 1.1)*

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Voice***American Heritage Dictionary - Cite This Source - Share This***va·ri·e·tal** (vuh-rāh-yə-tl) [Pronunciation Key](#)

adj. Of, indicating, or characterizing a variety, especially a biological variety.

- n. A wine made principally from one variety of grape and carrying the name of that grape.

[From *variety*.]**va·ri·e·tal·ly** *adv.*

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**varietal** (adj.)

1866, a biologists' word (first attested in Darwin), from [variety](#).  
In ref. to wines, meaning "made from a single variety of grape"  
is first attested 1941, Amer.Eng. As a noun, in this sense,  
attested from 1955.

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**varietal***noun*

a wine made principally from one grape and carrying the name of that grape [ant: generic]

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**Varietal**

Va\*ri'e\*tal\, a. Of or pertaining to a variety; characterizing a variety; constituting a variety, in distinction from an individual or species.

Perplexed in determining what differences to consider as specific, and what as varietal. --Darwin.

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## EXHIBIT B

**W9: Approved Grapes Names for American Wines**

When more than one name may be used to identify a single variety of grape, the synonym is shown in parentheses following the prime grape names.

*Aglianico*  
*Agwam*  
*Albariño (Alvarinho)*  
*Albemarle*  
*Aleatico*  
*Alicante Bouschet*  
*Aligoté*  
*Alvarelhão*  
*Alvarinho (Albariño)*  
*Arneis*  
*Aurore*  
*Bacchus*  
*Baco blanc*  
*Baco noir*  
*Barbera*  
*Beacon*  
*Beclan*  
*Bellandais*  
*Beta*  
*Black Corinth*  
*Black Pearl*  
*Blanc Du Bois*  
*Blue Eye*  
*Bonarda*  
*Bountiful*  
*Burdin 4672*  
*Burdin 5201*  
*Burdin 11042*  
*Burgaw*  
*Burger*  
*Cabernet franc*  
*Cabernet Pfeffer*  
*Cabernet Sauvignon*  
*Calzin*  
*Campbell Early (Island Belle)*  
*Canada Muscat*  
*Captivator*  
*Carignane*  
*Carlos*  
*Carmenère*  
*Carmine*  
*Carnelian*  
*Cascade*  
*Castel 19-637*  
*Catawba*  
*Cayuga White*  
*Centurion*  
*Chambourcin*  
*Chancellor*  
*Charbono*  
*Chardonel*  
*Chardonnay*  
*Chasselas dore*  
*Chelois*  
*Chenin blanc*  
*Chief*

*Chowan*  
*Cinsaut (Black Malvoisie)*  
*Clairette blanche*  
*Clinton*  
*Colombard (French Colombard)*  
*Colobel*  
*Cortese*  
*Corvina*  
*Concord*  
*Conquistador*  
*Couderc noir*  
*Counoise*  
*Cowart*  
*Creek*  
*Cynthiana (Norton)*  
*Dearing*  
*De Chaunac*  
*Delaware*  
*Diamond*  
*Dixie*  
*Dolcetto*  
*Doreen*  
*Dornfelder*  
*Dulcet*  
*Durif*  
*Dutchess*  
*Early Burgundy*  
*Early Muscat*  
*Edelweiss*  
*Eden*  
*Ehrenfelser*  
*Ellen Scott*  
*Elvira*  
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*Fiano*  
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*Flora*  
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*Gold*  
*Golden Isles*  
*Golden Muscat*  
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*Helena*

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*Iona*  
*Isabella*  
*Ives*  
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*Muscat du Moulin*  
*Muscat Hamburg (Black Muscat)*  
*Muscat of Alexandria*  
*Muscat Ottonel*  
*Naples*  
*Nebbiolo*  
*Négrette*  
*New York Muscat*  
*Niagara*  
*Noah*  
*Noble*  
*Norton (Cynthiana)*  
*Ontario*  
*Orange Muscat*  
*Palomino*  
*Pamlico*

*Pedro Ximenes*  
*Petit Verdot*  
*Petite Sirah*  
*Peverella*  
*Pinotage*  
*Pinot blanc*  
*Pinot gris (Pinot Grigio)*  
*Pinot noir*  
*Precoce de Malingre*  
*Pride*  
*Primitivo*  
*Rayon d'Or*  
*Ravat 34*  
*Ravat 51 (Vignoles)*  
*Ravat noir*  
*Redgate*  
*Regale*  
*Riesling (White Riesling)*  
*Rkatziteli (Rkatsiteli)*  
*Roanoke*  
*Rosette*  
*Roucaneuf*  
*Rougeon*  
*Roussanne*  
*Royalty*  
*Rubired*  
*Ruby Cabernet*  
*St. Croix*  
*St. Laurent*  
*Saint Macaire*  
*Salem*  
*Salvador*  
*Sangiovese*  
*Sauvignon blanc (Fumé blanc)*  
*Scarlet*  
*Scheurebe*  
*Sémillon*  
*Sereksiya*  
*Seyval (Seyval blanc)*  
*Siegerrebe*  
*Siegfried*  
*Southland*  
*Souzão*  
*Steuben*  
*Stover*  
*Sugargate*  
*Sultanina (Thompson Seedless)*  
*Summit*  
*Suwannee*  
*Sylvaner*  
*Symphony*  
*Syrah (Shiraz)*  
*Swenson Red*  
*Tannat*  
*Tarheel*  
*Taylor*  
*Tempranillo (Valdepeñas)*  
*Teroldego*  
*Thomas*  
*Thompson Seedless (Sultanina)*  
*Tinta Madeira*

*Tinto cão*  
*Tocai Friulano*  
*Topsail*  
*Touriga*  
*Traminer*  
*Traminette*  
*Trousseau*  
*Trousseau gris*  
*Ugni blanc (Trebbiano)*  
*Valdiguié*  
*Valerien*  
*Van Buren*  
*Veeblanc*  
*Veltliner*  
*Ventura*  
*Verdelet*  
*Verdelho*  
*Vidal blanc*  
*Villard blanc*  
*Villard noir*  
*Vincent*  
*Viognier*  
*Vivant*  
*Welsch Rizling*  
*Watergate*  
*Welder*  
*Yuga*  
*Zinfandel*

**Names approved pending formal rulemaking.**

TTB has received petitions for the following grape names that contain sufficient evidence for us to approve their use on American wine labels. TTB's Advertising, Labeling and Formulation Division is therefore approving certificates of label approval for American wines designated with these grape variety names.

*Auxerrois*  
*Biancolella*  
*Black Monukka*  
*Blaufrankisch*  
*Canaiolo*  
*Carignan*  
*Corot noir*  
*Erbaluce*  
*Favorite*  
*Forastera*  
*Freedom*  
*Frontenac*  
*Frontenac gris*  
*Garnacha*  
*Graciano*  
*Grenache blanc*  
*Grenache noir*  
*Grüner Veltliner*  
*Interlaken*  
*La Crescent*  
*Lagrein*  
*Louise Swenson*  
*Lucie Kuhlmann*  
*Mammolo*  
*Montepulciano*  
*Negrara*  
*Negro Amaro*  
*Nero d'Avola*  
*Noiret*  
*Peloursin*  
*Petit Bouschet*  
*Petit Manseng*  
*Piquepoul Blanc (Picpoul)*  
*Prairie Star*  
*Rondinella*  
*Sabrevois*  
*St. Pepin*  
*St. Vincent*  
*Sauvignon gris*  
*Valiant*  
*Valvin Muscat*  
*Vergennes*  
*Vermentino*  
*Wine King*

## EXHIBIT C



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**AUTHORIZED WINE APPELLATIONS OF ORIGIN – U.S. Viticultural Areas**

Name of Appellation	Country In Which Located	U.S. State in Which Located	Type of Appellation	Comment	Date of Last Entry
			Viticultural Area (Government Recognized Grape-Growing Area)		
Alexander Valley	United States	California	X	27 CFR 9.053	7/1/2004
Alexandria Lakes	United States	Minnesota	X	27 CFR 9.177	8/1/2005
Alta Mesa	United States	California	X	27 CFR 9.195	8/16/2006
Altus	United States	Arkansas	X	27 CFR 9.077	7/1/2004
Anderson Valley	United States	California	X	27 CFR 9.086	7/1/2004
Applegate Valley	United States	Oregon	X	27 CFR 9.165	7/1/2004
Arkansas Mountain	United States	Arkansas	X	27 CFR 9.112	7/1/2004
Arroyo Grande Valley	United States	California	X	27 CFR 9.129	7/1/2004
Arroyo Seco	United States	California	X	27 CFR 9.059	7/1/2004
Atlas Peak	United States	Oregon	X	27 CFR 9.140	7/1/2004
Augusta	United States	Missouri	X	27 CFR 9.022	7/1/2004
Bell Mountain	United States	Texas	X	27 CFR 9.055	7/1/2004
Ben Lomond Mountain	United States	California	X	27 CFR 9.118	7/1/2004
Benmore Valley	United States	California	X	27 CFR 9.138	7/1/2004
Bennett Valley	United States	California	X	27 CFR 9.142	7/1/2004
Borden Ranch	United States	California	X	27 CFR 9.196	8/16/2006
California Shenandoah Valley	United States	California	X	27 CFR 9.037	7/1/2004
Capay Valley	United States	California	X	27 CFR 9.176	7/1/2004
Carmel Valley	United States	California	X	27 CFR 9.058	7/1/2004
Carmelos (Los Carmeros)	United States	California	X	27 CFR 9.032	7/1/2004
Catoctin	United States	Maryland	X	27 CFR 9.067	7/1/2004
Cayuga Lake	United States	New York	X	27 CFR 9.127	7/1/2004
Central Coast	United States	California	X	27 CFR 9.075	7/1/2004



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			Viticultural Area (Government Recognized Grape-Growing Area)	U.S. State Or County Or Foreign Equivalent		
Central Delaware Valley	United States	New Jersey, Pennsylvania	X		27 CFR 9.049	7/1/2004
Chalk Hill	United States	California	X		27 CFR 9.052	7/1/2004
Chalone	United States	California	X		27 CFR 9.024	7/1/2004
Chehalem Mountains	United States	Oregon	X		27 CFR 9.205	12/27/2006
Chiles Valley	United States	California	X		27 CFR 9.154	7/1/2004
Cienega Valley	United States	California	X		27 CFR 9.038	7/1/2004
Clarksburg	United States	California	X		27 CFR 9.095	7/1/2004
Clear Lake	United States	California	X		27 CFR 9.099	7/1/2004
Clements Hills	United States	California	X		27 CFR 9.197	8/16/2006
Cole Ranch	United States	California	X		27 CFR 9.042	7/1/2004
Columbia Gorge	United States	Oregon, Washington	X		27 CFR 9.178	7/22/2004
Cosumnes River	United States	California	X		27 CFR 9.198	8/16/2006
Columbia Valley	United States	Washington, Oregon	X		27 CFR 9.074	7/1/2004
Covelo	United States	California	X		27 CFR 9.187	3/20/2006
Cucamonga Valley	United States	California	X		27 CFR 9.150	7/1/2004
Cumberland Valley	United States	Maryland, Pennsylvania	X		27 CFR 9.105	7/1/2004
Diablo Grande	United States	California	X		27 CFR 9.156	7/1/2004
Diamond Mountain District	United States	California	X		27 CFR 9.166	7/1/2004
Dos Rios	United States	California	X		27 CFR 9.175	11/14/2005
Dry Creek Valley	United States	California	X		27 CFR 9.064	7/1/2004
Dundee Hills	United States	Oregon	X		27 CFR 9.180	3/4/2005
Dunnigan Hills	United States	California	X		27 CFR 9.145	7/1/2004
Edna Valley	United States	California	X		27 CFR 9.035	7/1/2004



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			Viticultural Area (Government Recognized Grape-Growing Area)	U.S. State Or County Or Foreign Equivalent		
El Dorado	United States	California	X		27 CFR 9.061	7/1/2004
Eola-Amity Hills	United States	Oregon	X		27 CFR 9.202	8/16/2006
Escondido Valley	United States	Texas	X		27 CFR 9.141	7/1/2004
Fair Play	United States	California	X		27 CFR 9.168	7/1/2004
Fennville	United States	Michigan	X		27 CFR 9.033	7/1/2004
Fiddletown	United States	California	X		27 CFR 9.081	7/1/2004
Finger Lakes	United States	New York	X		27 CFR 9.034	7/1/2004
Fredericksburg in the Texas Hill Country	United States	Texas	X		27 CFR 9.125	7/1/2004
Grand River Valley	United States	Ohio	X		27 CFR 9.087	7/1/2004
Grand Valley	United States	Colorado	X		27 CFR 9.137	7/1/2004
Green Valley of Russian River Valley	United States	California	X		27 CFR 9.057 Name change from Sonoma County Green Valley	4/23/2007
Guenoc Valley	United States	California	X		27 CFR 9.026	7/1/2004
Hames Valley	United States	California	X		27 CFR 9.147	7/1/2004
Hermann	United States	Missouri	X		27 CFR 9.071	7/1/2004
High Valley	United States	California	X		27 CFR 9.189	8/1/2005
Horse Heaven Hills	United States	Washington	X		27 CFR 9.188	8/1/2005
Howell Mountain	United States	California	X		27 CFR 9.094	7/1/2004
Hudson River Region	United States	New York	X		27 CFR 9.047	7/1/2004
Isle St. George	United States	Ohio	X		27 CFR 9.051	7/1/2004
Jahant	United States	California	X		27 CFR 9.199	8/16/2006
Kanawha River Valley	United States	West Virginia	X		27 CFR 9.111	7/1/2004
Knights Valley	United States	California	X		27 CFR 9.076	7/1/2004
Lake Erie	United States	Pennsylvania, Ohio	X		27 CFR 9.083	7/1/2004



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Lake Michigan Shore	United States	Michigan	X		27 CFR 9.079	7/1/2004
Lake Wisconsin	United States	Wisconsin	X		27 CFR 9.146	7/1/2004
Lancaster Valley	United States	Pennsylvania	X		27 CFR 9.041	7/1/2004
Leelanau Peninsula	United States	Michigan	X		27 CFR 9.040	7/1/2004
Lehigh Valley	United States	Pennsylvania	X		27 CFR 9.210	4/10/2008
Lime Kiln Valley	United States	California	X		27 CFR 9.027	7/1/2004
Linganore	United States	Maryland	X		27 CFR 9.063	7/1/2004
Livermore Valley	United States	California	X		27 CFR 9.046	7/1/2004
Lodi	United States	California	X		27 CFR 9.107	7/1/2004
Long Island	United States	New York	X		27 CFR 9.170	7/1/2004
Loramie Creek	United States	Ohio	X		27 CFR 9.062	7/1/2004
Los Carneros (Carneros)	United States	California	X		27 CFR 9.032	7/1/2004
Madera	United States	California	X		27 CFR 9.092	7/1/2004
Malibu-Newton Canyon	United States	California	X		27 CFR 9.152	7/1/2004
Martha's Vineyard	United States	Massachusetts	X		27 CFR 9.073	7/1/2004
McDowell Valley	United States	California	X		27 CFR 9.036	7/1/2004
McMinnville	United States	Oregon	X		27 CFR 9.181	3/21/2005
Mendocino	United States	California	X		27 CFR 9.093	7/1/2004
Mendocino Ridge	United States	California	X		27 CFR 9.158	7/1/2004
Merritt Island	United States	California	X		27 CFR 9.068	7/1/2004
Mesilla Valley	United States	New Mexico, Texas	X		27 CFR 9.100	7/1/2004
Middle Rio Grande Valley	United States	New Mexico	X		27 CFR 9.119	7/1/2004
Mimbres Valley	United States	New Mexico	X		27 CFR 9.103	7/1/2004



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			Viticultural Area (Government Recognized Grape-Growing Area)	U.S. State Or County Or Foreign Equivalent		
Mississippi Delta	United States	Mississippi, Tennessee, Louisiana	X		27 CFR 9.096	7/1/2004
Mokelumne River	United States	California	X		27 CFR 9.200	8/16/2006
Monterey	United States	California	X		27 CFR 9.098	7/1/2004
Monticello	United States	Virginia	X		27 CFR 9.048	7/1/2004
Mt. Harlan	United States	California	X		27 CFR 9.131	7/1/2004
Mt. Veeder	United States	California	X		27 CFR 9.123	7/1/2004
Napa Valley	United States	California	X		27 CFR 9.023	7/1/2004
Niagara Escarpment	United States	New York	X		27 CFR 9.186	10/11/2005
North Coast	United States	California	X		27 CFR 9.030	7/1/2004
North Fork of Long Island	United States	New York	X		27 CFR 9.113	7/1/2004
North Fork of Roanoke	United States	Virginia	X		27 CFR 9.065	7/1/2004
North Yuba	United States	California	X		27 CFR 9.106	7/1/2004
Northern Neck George Washington Birthplace	United States	Virginia	X		27 CFR 9.109	7/1/2004
Northern Sonoma	United States	California	X		27 CFR 9.070	7/1/2004
Oak Knoll District of Napa Valley	United States	California	X		27 CFR 9.161	7/1/2004
Oakville	United States	California	X		27 CFR 9.134	7/1/2004
Ohio River Valley	United States	Ohio, Kentucky, Indiana, West Virginia	X		27 CFR 9.078	7/1/2004
Old Mission Peninsula	United States	Michigan	X		27 CFR 9.114	7/1/2004
Outer Coastal Plain	United States	New Jersey	X		27 CFR 9.207	3/12/2007
Ozark Highlands	United States	Missouri	X		27 CFR 9.115	7/1/2004



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			Viticultural Area (Government Recognized Grape-Growing Area)	U.S. State Or County Or Foreign Equivalent		
Ozark Mountain	United States	Arkansas, Missouri, Oklahoma	X		27 CFR 9.108	7/1/2004
Pacheco Pass	United States	California	X		27 CFR 9.088	7/1/2004
Paicines	United States	California	X		27 CFR 9.039	7/1/2004
Paso Robles	United States	California	X		27 CFR 9.084	7/1/2004
Potter Valley	United States	California	X		27 CFR 9.082	7/1/2004
Puget Sound	United States	Washington	X		27 CFR 9.151	7/1/2004
Ramona Valley	United States	California	X		27 CFR 9.191	1/6/2006
Rattlesnake Hills	United States	Washington	X		27 CFR 9.193	3/20/2006
Red Hill Douglas County, Oregon	United States	Oregon	X		27 CFR 9.190	11/14/2005
Red Hills Lake County	United States	California	X		27 CFR 9.169	9/13/2004
Red Mountain	United States	Washington	X		27 CFR 9.167	7/1/2004
Redwood Valley	United States	California	X		27 CFR 9.153	7/1/2004
Ribbon Ridge	United States	Oregon	X		27 CFR 9.182	7/1/2005
River Junction	United States	California	X		27 CFR 9.164	7/1/2004
Rockpile	United States	California	X		27 CFR 9.173	7/1/2004
Rocky Knob	United States	Virginia	X		27 CFR 9.043	7/1/2004
Rogue Valley	United States	Oregon	X		27 CFR 9.132	7/1/2004
Russian River Valley	United States	California	X		27 CFR 9.066	7/1/2004
Rutherford	United States	California	X		27 CFR 9.133	7/1/2004
Saddle Rock - Malibu	United States	California	X		27 CFR 9.203	8/16/2006
Salado Creek	United States	California	X		27 CFR 9.163	9/13/2004
San Antonio Valley	United States	California	X		27 CFR 9.194	7/10/2006
San Bernabe	United States	California	X		27 CFR 9.171	9/13/2004
San Benito	United States	California	X		27 CFR 9.110	7/1/2004



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Name of Appellation	Country In Which Located	U.S. State In Which Located	Type of Appellation		Comment	Date of Last Entry
			Viticultural Area (Government Recognized Grape-Growing Area)	U.S. State Or County Or Foreign Equivalent		
San Francisco Bay	United States	California	X		27 CFR 9.157	7/1/2004
San Lucas	United States	California	X		27 CFR 9.056	7/1/2004
San Pasqual Valley	United States	California	X		27 CFR 9.025	7/1/2004
San Ysidro District	United States	California	X		27 CFR 9.130	7/1/2004
Santa Clara Valley	United States	California	X		27 CFR 9.126	7/1/2004
Santa Cruz Mountains	United States	California	X		27 CFR 9.031	7/1/2004
Santa Lucia Highlands	United States	California	X		27 CFR 9.139	7/1/2004
Santa Maria Valley	United States	California	X		27 CFR 9.028	7/1/2004
Santa Ynez Valley	United States	California	X		27 CFR 9.054	7/1/2004
Seiad Valley	United States	California	X		27 CFR 9.148	7/1/2004
Seneca Lake	United States	New York	X		27 CFR 9.128	7/1/2004
Shawnee Hills	United States	Illinois	X		27 CFR 9.206	12/27/2006
Shenandoah Valley	United States	Virginia, West Virginia	X		27 CFR 9.060	7/1/2004
Sierra Foothills	United States	California	X		27 CFR 9.120	7/1/2004
Sloughhouse	United States	California	X		27 CFR 9.201	8/16/2006
Snake River Valley	United States	Idaho, Oregon	X		27 CFR 9.208	4/9/2007
Solano County Green Valley	United States	California	X		27 CFR 9.044	7/1/2004
Sonoma	United States	Arizona	X		27 CFR 9.097	7/1/2004
Sonoma Coast	United States	California	X		27 CFR 9.116	7/1/2004
Sonoma Mountain	United States	California	X		27 CFR 9.102	7/1/2004
Sonoma Valley	United States	California	X		27 CFR 9.029	7/1/2004
South Coast	United States	California	X		27 CFR 9.104	7/1/2004
Southeastern New England	United States	Connecticut, Rhode Island, Massachusetts	X		27 CFR 9.072	7/1/2004
Southern Oregon	United States	Oregon	X		27 CFR 9.179	3/4/2005



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Spring Mountain District	United States	California	X		27 CFR 9.143	7/1/2004
St. Helena	United States	California	X		27 CFR 9.149	7/1/2004
Sta. Rita Hills	United States	California	X		27 CFR 9.162	1/6/2006
Stags Leap District	United States	California	X		Santa Rita Hills 27 CFR 9.117	7/1/2004
Suisun Valley	United States	California	X		27 CFR 9.045	7/1/2004
Swan Creek	United States	North Carolina	X		27 CFR 9.211	5/27/2008
Temecula Valley	United States	California	X		27 CFR 9.050	7/1/2004
Texas Davis Mountains	United States	Texas	X		27 CFR 9.155	7/1/2004
Texas High Plains	United States	Texas	X		27 CFR 9.144	7/1/2004
Texas Hill Country	United States	Texas	X		27 CFR 9.136	7/1/2004
Texoma	United States	Texas	X		27 CFR 9.185	1/6/2006
The Hamptons, Long Island	United States	New York	X		27 CFR 9.101	7/1/2004
Tracy Hills	United States	California	X		27 CFR 9.204	12/8/2006
Trinity Lakes	United States	California	X		27 CFR 9.184	4/29/2005
Umpqua Valley	United States	Oregon	X		27 CFR 9.089	7/1/2004
Virginia's Eastern Shore	United States	Virginia	X		27 CFR 9.135	7/1/2004
Wahluke Slope	United States	Washington	X		27 CFR 9.192	1/6/2006
Walla Walla Valley	United States	Washington, Oregon	X		27 CFR 9.091	7/1/2004
Warren Hills	United States	New Jersey	X		27 CFR 9.121	7/1/2004
West Elks	United States	Colorado	X		27 CFR 9.172	7/1/2004
Western Connecticut Highlands	United States	Connecticut	X		27 CFR 9.122	7/1/2004
Wild Horse Valley	United States	California	X		27 CFR 9.124	7/1/2004
Willamette Valley	United States	Oregon	X		27 CFR 9.090	7/1/2004



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Willow Creek	United States	California	X		27 CFR 9.085	7/1/2004
Yadkin Valley	United States	North Carolina	X		27 CFR 9.174	7/1/2004
Yakima Valley	United States	Washington	X		27 CFR 9.069	7/1/2004
Yamhill-Carlton District	United States	Oregon	X		27 CFR 9.183	3/4/2005
York Mountain	United States	California	X		27 CFR 9.080	7/1/2004
Yorkville Highlands	United States	California	X		27 CFR 9.159	7/1/2004
Yountville	United States	California	X		27 CFR 9.160	7/1/2004